

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: HERLEY INDUSTRIES INC. : CIVIL ACTION  
SERVICES LITIGATION :  
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:  
:  
:  
: NO. 06-2596 (JRS)  
:  
: CLASS ACTION

- - -  
Wednesday, September 16, 2009  
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Videotape deposition of ALBERT S.  
DANDRIDGE, III, held at the law offices of BLANK  
ROME LLP, One Logan Square, floor 11,  
Philadelphia, Pennsylvania, on the  
above-mentioned date, commencing at 10:17 a.m.,  
before Kimberly Pepper, RPR.

- - -  
HUDSON REPORTING & VIDEO 1-800-310-1769

1 A. Yes.

2 Q. Which party did Mr. Pressman represent?

3 A. The defendant.

4 Q. And what was the subject on which you opined  
5 in this action?

6 A. I'd have to look at the report.

7 Q. Sure.

8 A. I guess there was a series of questions that  
9 were asked and a series of answers to those  
10 questions basically dealing with stock options  
11 and disclosure thereof.

12 Q. Was this the only report you provided in  
13 connection with the Gallo action?

14 A. Yes.

15 Q. Did you testify at trial in the Gallo action?

16 A. No.

17 Q. Were any motions made to exclude your  
18 testimony in the Gallo action?

19 A. No.

20 Q. Were you deposed in the Gallo action?

21 A. No.

22 Q. Now, the Gallo action I see is in Superior  
23 Court of New Jersey. Have you or was in the  
24 Superior Court in New Jersey. Have you provided  
25 testimony in any securities actions in federal

1 court prior to this action?

2 A. No.

3 Q. So all of the securities actions in which you  
4 provided testimony previously were in state  
5 courts?

6 A. The security actions where I was an expert  
7 witness were in federal or state courts all of  
8 which -- probably none of which I testified in in  
9 court. I provided expert reports. I may have  
10 been deposed. I at no time actually testified in  
11 court. The case had never got that far.

12 Q. And you do not recall sitting here the names  
13 of the federal securities cases in which you  
14 provided expert reports?

15 A. That's what I said.

16 Q. Is there any information or is there any way  
17 that you could refresh your recollection in any  
18 information that you could obtain?

19 A. They were years ago. I just don't recall,  
20 no.

21 Q. Were you a partner at the same law firm where  
22 you currently work?

23 A. Yes and no. Some of them I was, some of them  
24 I don't think I ever was.

25 Q. Do you know if -- well, how long ago were

1 conversation with Evan Lechtman that you think  
2 you said was initiated by Mr. Lechtman?

3 A. The first call or the second call?

4 Q. The second call.

5 A. Correct.

6 Q. Was anybody else on the call?

7 A. Not to my knowledge.

8 Q. How long did the call last?

9 A. I don't recall.

10 Q. What was discussed?

11 A. Did I get the stuff.

12 Q. And your response?

13 A. Got it, read it, and then they told me what  
14 they were looking for as far as an expert report.  
15 And I said, well, let me read further and I'll  
16 get back to you and see whether or not I could  
17 provide the kind of report and answer the  
18 questions that you are posing.

19 Q. What did they tell you they were looking for?

20 A. Looking to answer questions as to whether or  
21 not the disclosure in the, I guess the documents,  
22 whether or not it was reasonable that the  
23 attorneys I guess for Herley indicated to them,  
24 indicated to people at Herley that they did not  
25 have to disclose the uncharged criminal conduct

1 and they did not have to disclose the underlying  
2 aspects of the uncharged criminal conduct.

3 Q. Was there anything else that you were asked  
4 to opine on?

5 A. No.

6 Q. And you said you told Mr. Lechtman that you  
7 would look further at the documents and get back  
8 to him at that point?

9 A. Correct.

10 Q. When did you next communicate with anybody at  
11 Blank Rome?

12 A. I guess later that day or the next day.

13 Q. So this is around August 4th?

14 A. Somewhere around that time.

15 Q. And what documents did you look at?

16 A. The documents that Mr. Lechtman sent me.

17 Q. And you said those documents are identified  
18 in your expert report?

19 A. Correct.

20 Q. And who initiated the next communication?

21 A. I don't recall whether it was him or I.  
22 Probably me.

23 Q. What was the substance of that communication?

24 A. That I read some of the material and I think  
25 I could give a report.

1 Q. Do you frequently advise corporations about  
2 disclosures that should or shouldn't be made in  
3 SEC files?

4 A. I do it all the times.

5 Q. Did you ever provide advice to a client that  
6 was the target of a criminal fraud investigation  
7 concerning what should be disclosed in SEC  
8 filings?

9 MR. SMITH: Objection.

10 THE WITNESS: I'm sure that I  
11 have. I just don't recall.

12 BY MR. PRESS:

13 Q. Do you have any recollection of advising a  
14 client that was the subject as opposed to target  
15 of a criminal fraud investigation concerning --

16 MR. SMITH: Objection.

17 BY MR. PRESS:

18 Q. -- disclosures?

19 A. I probably have. I just don't recall.

20 Q. Do you recall ever advising a client on  
21 disclosures that should or shouldn't be made  
22 about criminal investigations?

23 A. I probably have. I just don't recall.

24 Q. You don't recall. Is there anything you  
25 could look at that would refresh your

1 recollection?

2 A. No.

3 Q. How many public companies have you advised in  
4 the last five years about disclosures in SEC  
5 filings?

6 A. Dozens.

7 Q. Any particular industries?

8 A. No, not particularly.

9 Q. Any in the defense industry, defense  
10 contractors?

11 A. I don't recall.

12 Q. Is -- are there any documents that you could  
13 look at that could help you refresh your  
14 recollection?

15 A. No.

16 Q. Do you know who the judge is in this  
17 proceeding?

18 A. I believe it's Judge Sanchez.

19 Q. Have you ever met Judge Sanchez?

20 A. Not that I recall.

21 Q. Have you ever before this action provided any  
22 reports in any actions that were pending before  
23 Judge Sanchez?

24 A. No.

25 Q. On pages one to two of your report you list

1 securities litigation that you reviewed in  
2 connection with making your report?

3 A. Correct.

4 Q. Are there any other documents relating to  
5 Herley Industries generally that you reviewed  
6 besides items A through N?

7 A. No.

8 Q. When you say -- I'm sorry, your reference in  
9 item A, "The Complaint entitled In Re Herley  
10 Industries, Inc. Security Litigation," do you  
11 know whether that was the original complaint or  
12 the amended complaint?

13 A. I don't recall.

14 Q. It had the caption In Re Herley Industries,  
15 Inc. Securities Litigation on it though?

16 A. Yes.

17 Q. Previously, I had asked you about advice that  
18 you had ever given to companies concerning  
19 disclosure and SEC filings of criminal  
20 investigations; and I don't want to  
21 mischaracterize your testimony, but I think you  
22 said you might have, you don't recall?

23 A. That's what I said.

24 Q. Do you have any recollection if you gave  
25 advice to companies about disclosure of criminal



1 investigations where the U.S. Government was  
2 their largest customer?

3 A. I don't recall.

4 Q. Now, in your report you say that you reviewed  
5 documents that are listed as A through N, and we  
6 have already established that I through N you  
7 reviewed just portions of them.

8 Which of these documents did you  
9 rely on in issuing your report?

10 A. I relied on all of them.

11 Q. You relied on all of them. Did anybody  
12 assist you in drafting your report?

13 A. No.

14 Q. Was there anybody who reviewed other  
15 documents relating to Herley Industries or this  
16 litigation and told you about them?

17 A. You mean at my firm?

18 Q. Well, we will start with at your firm.

19 A. No.

20 Q. Anywhere else?

21 A. I'm sure Mr. Lechtman and Mr. Smith reviewed  
22 the documents.

23 Q. Were there any additional documents that you  
24 requested from Mr. Lechtman besides the ones  
25 listed as A through N?

1 A. I don't think so.

2 Q. Is there any way to check?

3 A. I guess you could ask Mr. Lechtman.

4 Q. Probably can't but be that as it may.

5 Have your opinions about this  
6 action changed at all since you issued your  
7 report?

8 A. No.

9 Q. Do you have any additional opinions about  
10 legal duties related to Herley Industries besides  
11 those set forth in your report?

12 A. That's all I was asked to do. No.

13 Q. And in your report you pose an answer two  
14 questions; is that correct?

15 A. I put down the questions that were asked me  
16 and I answered them, yes.

17 Q. Questions that were asked to you by whom?

18 A. By Mr. Lechtman.

19 Q. And there were two such questions; is that  
20 correct?

21 A. Correct.

22 Q. One of them set forth on page two of your  
23 report and the other on page ten; is that  
24 correct?

25 A. Correct.

1 corporation not have a duty to disclose the  
2 existence of an investigation into possible  
3 criminal wrongdoing in its public filings with  
4 the SEC pursuant to the federal securities laws  
5 and the regulations promulgated thereunder until  
6 someone was charged with -- until someone was  
7 charged reasonable under the circumstances. I  
8 think I read that correctly.

9 When you say by its attorneys,  
10 which attorneys are you referring to?

11 A. The attorneys that advised the management of  
12 Herley Industries as to what their disclosure  
13 obligations were.

14 Q. Do you know who those attorneys were?

15 A. No.

16 Q. Did you ever speak to any of them?

17 A. No.

18 Q. And you say that you were referring to advice  
19 given to Herley Industries by its attorneys that  
20 a corporation does not have a duty to disclose.  
21 Why does your report refer just to a corporation  
22 as opposed to Herley specifically?

23 A. I don't understand the question.

24 Q. The reference here is was the advice given to  
25 Herley by its attorneys that a corporation does

1 not have the duty to disclose. I'm wondering is  
2 there any specific reason why you referenced a  
3 corporation generally rather than Herley  
4 Industries specifically?

5 A. Well, I think it applies to both. I think a  
6 corporation generally does not have to disclose  
7 under those circumstances and specifically it  
8 referred to Herley Industries.

9 Q. Do you have any understanding of whether  
10 Herley Industries was actually advised by its  
11 attorneys that it did not have to disclose the  
12 existence of an investigation into possible  
13 wrongdoing in its SEC filings until someone was  
14 charged?

15 A. That appears to be what the transcripts say.

16 Q. So your understanding is based on what you  
17 have read in the deposition transcripts?

18 A. Yeah, and in the other documents that was  
19 provided.

20 Q. Do you recall which other documents?

21 A. No. Somewhere within A to N.

22 Q. And the transcripts, you are referring to the  
23 transcripts of the depositions of -- do you  
24 remember which depositions?

25 A. Primarily Mr. Levy, but I think the others as

1 well.

2 Q. And other than as you just testified, there  
3 are no other facts that form your belief as to  
4 whether or not Herley was given advice by its  
5 attorneys?

6 MR. SMITH: Objection.

7 BY MR. PRESS:

8 Q. That it did not have to disclose the  
9 existence of an investigation into possible  
10 wrongdoing of its SEC filings?

11 A. I'm lost. I don't understand the question.

12 Q. I had asked you if you had any understanding  
13 of whether that advice, the advice recounted in  
14 question one was actually given to Herley by its  
15 attorneys, and you said you had an understanding  
16 based on some of the transcripts and some of the  
17 other documents listed in A to N.

18 And I'm just asking you if your  
19 understanding is based on anything other than the  
20 documents you just mentioned?

21 A. As to what Herley's attorneys may have told  
22 the management of Herley?

23 Q. That's correct.

24 A. Correct.

25 Q. Do you know how this advice was conveyed by

1 Herley -- by the attorneys to Herley?

2 A. No.

3 Q. And you've never seen any documents that  
4 constitute the advice?

5 A. I saw what is within the ambit of A through  
6 N.

7 Q. And are you aware of anything within the  
8 ambit of A through N that constitutes  
9 communications from Herley's corporate attorneys  
10 to Herley?

11 MR. SMITH: Objection.

12 THE WITNESS: That's what the  
13 transcripts say that they were told.

14 BY MR. PRESS:

15 Q. I'm asking whether you saw anything within A  
16 through N that constituted the advice, a letter  
17 from counsel, an e-mail?

18 MR. SMITH: Objection.

19 THE WITNESS: Again, Mr. Levy  
20 and other depositions say -- I assume they were  
21 under oath -- that this is what they were told.

22 BY MR. PRESS:

23 Q. And that's the sole basis for your  
24 understanding about what and whether Herley was  
25 advised by counsel that it should disclose the

1 SEC filings?

2 A. I'm assuming the client knows what the  
3 counsel told them.

4 Q. But you don't know of -- you don't have any  
5 other basis other than reading the transcripts  
6 for what counsel was told?

7 A. Correct.

8 Q. And when you referred in question one to  
9 public filings with the SEC, what documents are  
10 you referring to?

11 A. Any filing required under the Securities Act  
12 of 1934 from early 10-K's, 10-Q's or A-K's.

13 Q. But the only SEC filings of Herley that you  
14 looked at were items I and J?

15 A. Correct.

16 Q. And I and J are the 2004 and 2005 10-K's?

17 A. They are public filings, yes.

18 Q. And those documents you had only reviewed in  
19 part?

20 A. Correct.

21 Q. In your question one and also in -- I'm  
22 sorry, in question one you conclude with the term  
23 reasonable under the circumstances. I think  
24 those are the last four words of question one on  
25 page two of your report.

1 THE WITNESS: Yeah. I think  
2 they knew about it.

3 BY MR. PRESS:

4 Q. Do you know whether Herley had any knowledge  
5 of a pending indictment of Herley or any of its  
6 officers or directors at that time?

7 MR. SMITH: Objection.

8 THE WITNESS: I don't think they  
9 knew.

10 BY MR. PRESS:

11 Q. And what is the basis of that assertion?

12 A. You usually don't know about an indictment  
13 until it's handed down.

14 Q. Other than that is there any basis for your  
15 belief that they did not know?

16 A. Not that I recall. It may have been  
17 something in the transcripts. I don't recall.

18 Q. Do you have any understanding of counsel's  
19 knowledge of the conduct underlying the  
20 investigation -- the conduct at the heart of the  
21 investigation at the time that this advice was  
22 rendered?

23 MR. SMITH: Objection.

24 THE WITNESS: No.

25 BY MR. PRESS:



1 in rendering your opinion?

2 A. No.

3 Q. In your report you discuss items 103, 401(f)  
4 and 303 of SEC Regulation S-K and then that they  
5 are referenced at pages three, five and nine of  
6 your report; is that correct, sir?

7 A. Correct.

8 Q. How did you choose those three items of the  
9 regulation to discuss in your report?

10 A. Because those are the three items under the  
11 SEC's rules that may have required any discussion  
12 of the underlying aspects of what we are talking  
13 about.

14 Q. What do you mean by the underlying aspects of  
15 what we are talking about?

16 A. We are talking about a grand jury  
17 investigation.

18 Q. So those are the only SEC regulations that  
19 would govern disclosure of a grand jury  
20 investigation into uncharged criminal conduct in  
21 an SEC filing?

22 A. Well, as a security practitioner, those are  
23 the three items that one would look to to make a  
24 determination as to whether or not disclosure  
25 would be required.

1 THE WITNESS: I don't recall.

2 BY MR. PRESS:

3 Q. And just to be clear, the briefs that I was  
4 referring to are the ones listed in your report  
5 on pages one and two as items D and E. Those are  
6 the documents that I believe you said previously  
7 that you read.

8 A. Is that a question?

9 Q. I'm just wondering whether your answer  
10 changes if I clarify that those are the two  
11 documents that I'm referring to?

12 A. I don't recall.

13 Q. Other than items 103, 303 or 401, are there  
14 any regulations or circumstances that would  
15 require a company to disclose an investigation  
16 into criminal conduct or the underlying conduct  
17 in its SEC filings?

18 A. Well, it's my belief that you would look to  
19 three different circumstances as to the  
20 disclosure requirements. You would look at what  
21 the regs require, those being items 103, 401(f)  
22 and 303.

23 There may be some circumstances  
24 where the defendant is charged with insider  
25 trading, and there may be some circumstances

1 where there is previous disclosure and that gives  
2 a duty to disclosure, I believe the brief  
3 disclosure.

4 Q. So if you could turn your attention to page  
5 eight of your report, the first full paragraph,  
6 you refer to a case called Roeder, R-o-e-d-e-r,  
7 and you say, "In Roeder the court found that  
8 there was no duty to disclose" -- and quote now  
9 you have quotation marks in your report, "'if  
10 there is no insider trading, no statute or  
11 regulation requiring disclosure and no  
12 inaccurate, incomplete or misleading prior  
13 disclosure.'" And are those the three  
14 circumstances that you just referred to?

15 A. Correct.

16 Q. You go on to say on page eight of your  
17 report, "Such is the case with the company.  
18 There was no insider trading, no statute or  
19 regulation requiring disclosure and no  
20 inaccurate, incomplete or misleading disclosure  
21 in connection with the company's filings with the  
22 SEC."

23 So it's your understanding that  
24 Herley had no duty to disclose the investigation  
25 or any underlying criminal conduct because it's

1 not required under items 103, 303 or 401 and  
2 there was no insider trading and no inaccurate,  
3 incomplete or misleading prior disclosures; is  
4 that correct?

5 MR. SMITH: Objection.

6 THE WITNESS: Right.

7 BY MR. PRESS:

8 Q. When you say, "Such is the case with the  
9 company. There was no insider trading, no  
10 statute or regulation requiring disclosure, and  
11 no inaccurate, incomplete or misleading  
12 disclosure in connection with the company's  
13 filings with the SEC," are those findings you had  
14 made or are those conclusions that -- are those  
15 assumptions that you have in making your report?

16 A. I saw nothing to dispute that.

17 Q. Nothing in the documents that you reviewed --

18 A. Correct.

19 Q. -- A through N?

20 A. Correct.

21 Q. Now, the statute or regulation requiring  
22 disclosure which I guess is the second of the  
23 three circumstances that you list that might  
24 trigger a duty to disclose, are there any -- the  
25 statutes and regulations, that refers to items

1 103, 303 and 401 that you discuss in the report?

2 A. Correct.

3 Q. Now, what do you mean by insider trading?

4 What do you -- how do you define insider trading?

5 A. Insider trading is the purchase of sale of  
6 security in the possession of material nonpublic  
7 information.

8 Q. And would a criminal investigation constitute  
9 material information if it's not known to the  
10 public?

11 A. That's not what I was saying. It's not what  
12 I was opining to.

13 Q. I'm sorry?

14 A. I didn't opine to materiality.

15 Q. Well, you define insider trading as purchase  
16 or selling of securities while in the possession  
17 of material nonpublic information.

18 A. Correct.

19 Q. If you opine that there was no insider  
20 trading that requires an opinion as to --

21 A. Go ahead.

22 Q. -- as to whether there was a purchase or sale  
23 while in possession of material nonpublic  
24 information?

25 A. No, it wouldn't. Insider trading wasn't

1 charged in this case.

2 Q. So your opinion that there was no insider  
3 trading is based on your understanding that  
4 insider trading was not charged?

5 A. Correct.

6 Q. What do you mean when you say insider trading  
7 was not charged?

8 A. Was there a charge of insider trading in this  
9 case? I don't think so.

10 Q. And that's the basis of your conclusion that  
11 there was no insider trading here?

12 A. I said that three times now.

13 Q. You defined insider trading as a purchase or  
14 sale?

15 A. Only because you asked me to.

16 Q. Yes. I'm asking you a series of questions  
17 here, sir. I'm sorry, and I don't want to  
18 mischaracterize your definition. I believe you  
19 said purchase or sale of securities while in  
20 possession of material nonpublic information?

21 A. That is generally deemed to be the definition  
22 of insider trading, yes.

23 Q. And any person that trades securities while  
24 in possession of material nonpublic information  
25 might have liability for insider trading?

1 MR. SMITH: Objection.

2 THE WITNESS: Might.

3 BY MR. PRESS:

4 Q. And how about a corporation that trades  
5 securities?

6 MR. SMITH: Objection.

7 THE WITNESS: It might.

8 BY MR. PRESS:

9 Q. What circumstances would it or would it not  
10 have insider trading liability?

11 A. I have no idea. I don't want to go through  
12 the permutations right now. I don't want to go  
13 through all the permutations.

14 Q. And you don't have an opinion as to whether  
15 or not the criminal investigation of Herley was  
16 material information?

17 A. No.

18 Q. Do you have any opinion on whether a criminal  
19 investigation can ever constitute material  
20 information?

21 MR. SMITH: Objection.

22 THE WITNESS: I assume that it  
23 could, but that's not what I was asked to opine  
24 on.

25 BY MR. PRESS:

1 whether at the time the company filed the 2004 or  
2 2005 10-K's of the documents that were enumerated  
3 as items I and J in your report, whether any  
4 officers of the company of Herley had any  
5 knowledge of conduct that constituted criminal  
6 violations with respect to Herley's power head or  
7 VCO contracts with the government?

8 MR. SMITH: Objection.

9 THE WITNESS: I don't know. I  
10 mean perhaps they did but, again, that was still  
11 not -- did not trigger a duty to disclose.

12 BY MR. PRESS:

13 Q. What do you mean by inaccurate, incomplete or  
14 misleading disclosure in connection with the  
15 company's filings with the SEC? And that's a  
16 quote from page eight of your report.

17 A. Whether previous disclosure was inaccurate,  
18 incomplete or misleading.

19 Q. And you conclude that there was no  
20 inaccurate, incomplete or misleading disclosure  
21 by Herley in connection with its filings with the  
22 SEC?

23 A. Correct.

24 Q. Inaccurate, incomplete or misleading  
25 disclosure concerning the investigation or the



1 underlying conduct or both?

2 A. Both.

3 Q. And what is the basis for that conclusion?

4 A. They didn't say anything about the grand jury  
5 investigation or the underlying conduct.

6 Q. And is it your understanding that in order to  
7 have the duty to disclose the grand jury  
8 investigation or the underlying conduct the  
9 company had to have said something that it was  
10 inaccurate about the grand jury investigation or  
11 the underlying conduct?

12 A. Correct.

13 Q. So if the SEC filing said we are not subject  
14 to any criminal investigations right now, that  
15 would be inaccurate in your opinion?

16 A. I'm assuming so, yes.

17 Q. And if they said we are in compliance with  
18 all government contracting regulations?

19 MR. SMITH: Objection.

20 THE WITNESS: In full  
21 compliance, in compliance or in material  
22 compliance?

23 MR. SMITH: Objection.

24 BY MR. PRESS:

25 Q. Take them one at a time. Full compliance.

1 A. I don't recall. I think Matthews dealt with  
2 Rule 14 a)(9) under the 1934 Act again which is  
3 analogous to 10(b) except it's not the purchase  
4 and sale of security. It's the solicitation of  
5 proxies.

6 Q. But the disclosure duties are the same under  
7 Rule 14(a)(9) and Section 10(b)?

8 A. Basically, yes.

9 Q. And when you say basically, can you tell me  
10 what the differences are?

11 A. Again, one is the solicitation of proxy, the  
12 other is the purchase and sale of security.

13 Q. That's the only difference you are aware of?

14 A. That I recall, yes.

15 Q. Does Bolger, B-o-l-g-e-r, v. First State  
16 Financial Services which is discussed at page  
17 five of your report discuss claims under Section  
18 10(b)?

19 A. I don't recall.

20 Q. The cases that you cited though all discuss  
21 whether a company has a duty to disclose criminal  
22 investigation or uncharged criminal conduct in  
23 its SEC filings?

24 A. Most of them, yes.

25 Q. Do you know if any involved a situation where

1 Q. Do you know whether any of the cases cited in  
2 your report were covered by the PSLRA, the  
3 Private Securities Litigation Reform Act of 1995?

4 A. I think the majority of the cases were prior  
5 to the PSLRA.

6 Q. Do you know if any of the cases dealt with  
7 Section 10(b) post PSLRA?

8 A. Again, I believe that most of these cases  
9 were prior to PSLRA.

10 Q. Now you said, I'm asking you do you know  
11 whether any of the cases dealt with Section 10(b)  
12 post PSLRA?

13 A. And my answer is the same. I think most of  
14 these are prior to PSLRA so there may be a case  
15 posted, but I don't think so. I don't know.

16 Q. So was Matthews a 10(b) case?

17 A. Matthews, as I said before, was a 14(a)(9)  
18 case.

19 Q. You say on page seven of your report that,  
20 "Some of the other decisions after Matthews  
21 suggest wrongdoing by officers and directors  
22 regardless of whether or not criminal proceedings  
23 have been commenced should be disclosed." And  
24 you go on to discuss -- I see the rest of that  
25 section a case called Par Pharmaceutical, a case

1 addressed by the court in the opinion in  
2 Amalgamated Clothing and Textile Workers Union  
3 versus J.P. Stevens & Co.?

4 A. Again I believe they were. I just don't  
5 recall specifically.

6 Q. I show you a copy of it. Mark this as  
7 Exhibit 7, and this is a copy of an opinion  
8 Amalgamated Clothing and Textile Workers Union v.  
9 J.P. Stevens & Co, Inc.

10 (At this time, Dandridge Exhibit  
11 7 was marked for identification.)

12 BY MR. PRESS:

13 Q. I ask you to look at Exhibit 7. Is that what  
14 we are up to, 7?

15 Do you recognize this opinion?

16 A. Yes.

17 Q. And is this the opinion that you refer to at  
18 pages eight to nine of your report?

19 A. Correct.

20 Q. If you look at it, and I direct your  
21 attention to the page that is numbered in the  
22 upper right, page four of seven, does that  
23 refresh your recollection in any way as to  
24 whether or not this action involved alleged  
25 violations of Section 10(b) of the 1934 Act?

1 A. This action alleged violations of Section 14  
2 (a)(9) of the Securities and Exchange Act of 1934  
3 which again is analogous to Section 10(b) under  
4 the same act.

5 Q. And analogous in that they both have the same  
6 standards for disclosure for what has to be  
7 disclosed, but one is in a proxy solicitation and  
8 the other is in connection with a purchase or  
9 sale of securities?

10 A. They both maintain what is fraudulent conduct  
11 in the disclosure pertaining to either a purchase  
12 and sale of securities or the solicitation of a  
13 proxy.

14 Q. So but they both have the same standard for  
15 what has to be disclosed, one just in proxy  
16 solicitations, one in connection with the  
17 purchase and sale of securities?

18 A. You could say that.

19 Q. So you would disagree with me then if I would  
20 argue that the Amalgamated case is  
21 distinguishable from the Herley situation because  
22 the Herley case is a 10(b) case and the  
23 Amalgamated is a 14(a) case, the disclosure duty  
24 is the same?

25 A. The disclosure duty is the same. All I'm

1 Q. Okay. The end -- on page ten of your report,  
2 second full paragraph which is the paragraph  
3 right before we get to question two you say,  
4 "Based upon the SEC disclosure requirements and  
5 the weight of the cases cited above, it is my  
6 view that the company was given reasonable advice  
7 by its attorneys that it was not required to  
8 disclose the grand jury investigation until  
9 someone was charged." And that is your opinion,  
10 correct, sir?

11 A. Correct.

12 Q. And I believe you testified before, I want to  
13 make sure about this, you have never actually  
14 seen any transcription of the substance of the  
15 company's advice? You have never seen any letter  
16 constituting the advice or memo?

17 A. Correct.

18 Q. And your understanding that there was advice  
19 given and what the advice was comes from your  
20 reading of the documents that you enumerated as  
21 items A through N on pages one to two of your  
22 report?

23 MR. SMITH: Objection.

24 THE WITNESS: Correct.

25 BY MR. PRESS: